

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay)	CG Docket No. 10-51
Service Program)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals with)	
Hearing and Speech Disabilities)	

COMMENTS OF SPRINT CORPORATION

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Sprint Corporation (“Sprint”) hereby submits these comments in response to the Report and Order and Further Notice of Proposed Rulemaking released by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding.¹

I. INTRODUCTION AND SUMMARY

In adopting the Order, the Commission indicated that its reforms of the Video Relay Service (“VRS”) program were “designed to ensure that this vital program fulfills the goals set in section 225 of the Communications Act (‘the Act’) for the benefit of all consumers, and is an effective, efficient, and sustainable program for the future.”² Sprint agrees that these objectives are of paramount importance, not only for VRS but for all forms of telecommunications relay

¹ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (2013) (FCC 13-82) (“Order” or “FNPRM” or “Further Notice”).

² *Id.* ¶ 1.

services (“TRS”), including Internet Protocol Relay (“IP Relay”) and Internet Protocol Captioned Telephone Service (“IP CTS”).

Achieving these goals for the different forms of TRS is not merely a matter of applying the VRS rules to all other services, however. To the contrary, the Commission must consider the unique characteristics of each service and user population in determining whether a particular regulation is appropriate for a particular form of TRS. As explained below, this type of careful service-by-service, rule-by-rule consideration should lead the Commission to:

- Designate a separate section of the TRS rules for each service,
- Decline to extend registration and TRS User Registration Database (“TRS-URD”) requirements to IP Relay and IP CTS providers at this time,
- Exclude IP CTS from the national outreach regime adopted for VRS and IP Relay,
- Apply non-discrimination principles to all providers of Internet-based TRS (“iTRS”), and
- Avoid overly-broad blanket regulations by ensuring that any additional rules are tailored to address demonstrated needs related to a specific type of iTRS.

In addition, the Commission should establish clear guidelines regarding the data that providers must submit to the TRS Fund administrator to receive compensation. Finally, the Commission should permit providers to participate in the new TRS Fund advisory committee.

II. THE COMMISSION SHOULD RESTRUCTURE THE TRS RULES TO BE SERVICE-SPECIFIC

As the Commission correctly noted, section 64.604 of its rules, which governs the mandatory minimum standards applicable to all TRS providers, has become “unwieldy.”³ At

³ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Further Notice of Proposed Rulemaking, 26 FCC Rcd 17367, ¶ 70 (2011).

present, several subsections of the rule apply only to VRS providers,⁴ while other subsections impose different standards on different types of providers. For example, communications assistants (“CAs”) answering and placing a TTY-based TRS or VRS call must stay with the call for a minimum of ten minutes, while CAs answering and placing a speech-to-speech relay call must stay with the call for a minimum of twenty minutes.⁵ The result is a morass that is difficult for providers – or anyone else interested in the TRS program – to navigate. The Commission should address this situation by adopting its proposal to place all the rules applicable to a particular service in a single section dedicated to that service.⁶ While some provisions may be duplicated under this approach, the overall result will be increased clarity and convenience for anyone seeking to understand what rules apply to any particular form of TRS.

III. THE COMMISSION SHOULD CAREFULLY CONSIDER THE DIFFERENCES BETWEEN TRS TECHNOLOGIES IN CONSIDERING WHETHER TO APPLY VRS RULES TO OTHER SERVICES

At several points in the Further Notice, the Commission seeks comment on whether to extend the structural reforms adopted for VRS to other forms of TRS.⁷ Some of the rules adopted for VRS clearly should apply to all TRS technologies. Most notably, the Commission should extend the non-discrimination rule adopted for VRS providers to providers of all other forms of iTRS.⁸ As the Commission notes, this requirement largely serves to extend the non-discrimination principles that apply to voice carriers to providers of TRS, thereby furthering

⁴ See, e.g., 47 C.F.R. §§ 64.604(a)(1)(iv), (a)(6), (a)(7), (b)(4)(iii).

⁵ 47 C.F.R. § 64.604(a)(1)(v).

⁶ FNPRM ¶ 269.

⁷ See, e.g., *id.* ¶¶ 250-255.

⁸ *Id.* ¶ 128.

functional equivalency.⁹ There is no reasoned basis for excluding providers of any type of TRS from the basic obligations not to “engage in any unjust or unreasonable discrimination” or to subject any person or class of persons to “any undue or unreasonable prejudice or disadvantage.”¹⁰

Not all the rules the Commission adopted regarding VRS should apply to other forms of TRS, however. As noted above, there are clear differences between the various forms of TRS – and between the populations that use them – that make a “one-size-fits-all” approach to TRS regulation inappropriate and, in some cases, counterproductive. In deciding whether to extend any of the new VRS rules to any other particular form of iTRS, the Commission should consider:

- the differences between VRS and the specific form of iTRS in question,
- the differences between VRS users and consumers of the particular form of iTRS at issue, and
- whether the specific rule is necessary to address a concern related to a given type of iTRS.

As outlined below, these considerations militate against: (1) extending the registration and TRS-URD requirements to IP Relay and IP CTS providers at this time; (2) prohibiting IP CTS providers from including the cost of outreach in yearly cost submissions; and (3) extending any additional VRS rules to other forms of iTRS unless and until there is a demonstrated need to adopt a particular rule to address a concern related to a specific form of iTRS.

⁹ *Id.*

¹⁰ 47 C.F.R. § 64.604(c)(12). Similarly, if the Commission were to alter the VRS guest user policy in a way that addressed concerns regarding false emergency calls (*i.e.*, swatting), the Commission may want to consider making similar modifications to the rules governing IP Relay. *See* FNPRM ¶ 274.

Registration and the TRS-URD. In the Further Notice, the Commission proposes to “require each iTRS provider to provide users with the capability to register with that iTRS provider as a ‘default provider,’ to populate the TRS-URD with the necessary information for each registered user, and to query the database to ensure each user’s eligibility for each call.”¹¹ If this proposal were adopted, IP Relay and IP CTS providers would have to collect information about each user, including name, address, the last four digits of the Social Security number, and date of birth, and populate the TRS-URD with this information.¹² It is unclear, however, why such new requirements are needed for either IP Relay or IP CTS.¹³ As the Commission notes in the Further Notice, it already “has taken significant steps to reduce waste, fraud, and abuse in the IP Relay and IP CTS programs in the last year.”¹⁴ For example, the Commission has prohibited IP Relay providers from handling non-emergency calls made by new users prior to taking reasonable measures to verify their registration information.¹⁵ With respect to IP CTS, the Commission, *inter alia*, required new IP CTS users to self-certify that they need a captioned phone, established a default “captions-off” setting that requires users to turn the captions on for each call, and prohibited IP CTS providers from giving “referral fees” to certain parties as a

¹¹ FNPRM ¶ 251.

¹² *Id.* ¶ 70.

¹³ Sprint does not provide VRS and therefore did not weigh in on the Commission’s original proposal to impose the new TRS-URD requirements on VRS providers.

¹⁴ FNPRM ¶ 251.

¹⁵ *Misuse of Internet Protocol (IP) Relay Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, First Report and Order, 27 FCC Rcd 7866, ¶ 1 (2012).

reward for bringing in new customers.¹⁶ Given these substantial new safeguards, it is far from clear that any additional requirements are needed at this time,¹⁷ particularly since IP CTS misuse is “very rare.”¹⁸

Moreover, the consumer confusion and privacy concerns created by a registration requirement likely would be more significant with the IP Relay and IP CTS user populations than with VRS users. In the Order, the Commission perfunctorily acknowledges “concerns that users will react negatively to being required to provide personal information,” but then summarily dismisses such worries, claiming that specified privacy and security safeguards will be sufficient “to allay such concerns.”¹⁹ The Commission does not appear to recognize, however, the challenges involved in explaining these new requirements to IP Relay users via written communications. It is far easier to use American Sign Language (“ASL”)-based videos to explain the need to obtain personal information and include it in a shared database to VRS users who are lifelong members of the deaf community than to effectively communicate the

¹⁶ *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, ¶ 1 (2013).

¹⁷ *See, e.g.*, Letter from Christopher J. Wright, Counsel to CaptionCall, LLC, to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 13-24 and 03-123, at 1-2 (Aug. 12, 2013) (“At a minimum, before adopting a regulation limiting the right to functionally equivalent telecommunications service, the Commission should obtain evidence demonstrating clear proof of misuse and should also conclude that the misuse that will be curbed far exceeds the burden placed on hard-of-hearing persons.”); Letter from Jennifer P. Bagg, Communications Law Counsel, to Marlene H. Dortch, FCC Secretary, CG Docket Nos. 13-24 and 03-123, at 2 (Aug. 12, 2013) (urging the FCC to “impose as few additional requirements on IP CTS services as possible to avoid dissuading the individuals who benefit the most from IP CTS from using the service”) (“ALOHA Ex Parte”).

¹⁸ ALOHA Ex Parte at 2.

¹⁹ FNPRM ¶ 70 n.170.

same information to IP Relay users in a format that will be readily accessible and understandable to them.

Similarly, the IP CTS population contains a large number of senior citizens who may be confused or put off by correspondence asking for the last four digits of their social security number and seeking consent to having their personal information entered into the TRS-URD.²⁰ Claims that an administrative agency with which they may have only a passing familiarity (if any familiarity at all) has implemented “safeguards” to protect the requested information likely will do little to assuage their reasonable apprehensions regarding identity theft, phishing, and similar schemes that often target senior citizens.²¹ It is likely that a significant number of these IP CTS users would choose not to respond to correspondence seeking access to sensitive personal information for purposes of including it in a shared database. As a result, this group of IP CTS users ultimately would lose, or be denied, service – a result that would flatly contravene the tenets of the Americans with Disabilities Act.²²

In addition, unlike VRS users, IP CTS users already obtain ten-digit telephone numbers from a voice carrier and are part of the Public Switched Telephone Network. There is no logical reason to subject these individuals to requirements beyond those that apply to all telephone company customers. Indeed, imposing additional obligations on IP CTS users simply because

²⁰ *Id.* ¶ 70.

²¹ *See, e.g., FTC Seeks Public Input on How Identity Theft Impacts Senior Citizens*, Federal Trade Commission, <http://ftc.gov/opa/2012/04/idtheft.shtm> (last visited Aug. 19, 2013) (“Seniors may be particularly susceptible to identity theft. They are often targeted for phishing scams[.]”).

²² 47 U.S.C. § 225.

they are hard of hearing would raise substantial concerns about improper discrimination against people with disabilities.²³

Instead of hastily moving forward with burdensome additional regulations that may prove unnecessary – and that will almost certainly deter at least some consumers from taking advantage of potentially vital services – the Commission should take the time to evaluate the impact of its recent reforms before imposing TRS-URD requirements on IP Relay and IP CTS consumers and providers. If the FCC rejects this more prudent course and decides to move forward in spite of the significant concerns outlined above, the Commission should, at a minimum, modify the TRS-URD to accommodate the unique characteristics of IP Relay and IP CTS, respectively. For example, because IP CTS providers generally do not assign telephone numbers to their customers, the Commission would need to waive the registration requirements pertaining to ten-digit telephone numbers for IP CTS providers.

Outreach. In the Order, the Commission initiated a national pilot program to conduct TRS outreach and prohibited VRS and IP Relay providers from including the cost of outreach in yearly cost submissions going forward.²⁴ In the Further Notice, the Commission seeks comment on “whether similar action is appropriate with regard to IP CTS.”²⁵

As an initial matter, Sprint continues to have concerns regarding the impact the new outreach rules will have on providers of IP Relay. As Sprint noted in its recent Petition for

²³ It is also worth noting that IP Relay and IP CTS are provided at a much lower cost to the Fund than VRS. Furthermore, it is unclear why anyone would choose to use IP CTS unless they had a legitimate need for the service. IP CTS does not provide its users with anonymity, does not allow users to avoid the expense of monthly telephone service, and does not offer any additional benefits, such as the ability to communicate via videophone on point-to-point calls.

²⁴ FNPRM ¶¶ 26-39.

²⁵ *Id.* ¶ 254.

Reconsideration, the Commission's decision to prohibit IP Relay providers from receiving compensation for outreach activities essentially prevents IP Relay providers from engaging in outreach efforts.²⁶ This creates uncertainty regarding the volume of calls providers should plan to handle and, thus, undermines providers' ability to make efficient business plans as they no longer control their own customer acquisition efforts.²⁷ Similar concerns would arise if the Commission prohibited Sprint from recouping IP CTS outreach costs.

Moreover, the inherent differences between IP CTS users and other iTRS users raises additional concerns regarding the potential harms that would be created if the FCC relegated IP CTS outreach to a third party. As noted above, the IP CTS community is largely composed of senior citizens, many of whom experienced hearing difficulties for the first time later in life. Outreach aimed at the broader deaf community is likely to overlook these people, who must be reached using targeted marketing strategies markedly different from those used to reach VRS users, for example. While VRS users are more effectively targeted using online videos and announcements, IP CTS users typically rely on their children or health professionals for information. These individuals are best reached through radio spots or other channels that would clearly be ineffective in reaching VRS users, who tend to rely more on deaf peers for support and advice. Conversely, reaching IP CTS users does not involve some of the same challenges VRS providers have faced in reaching out to deaf individuals who rely primarily on ASL to communicate. It is clear that different outreach strategies will need to be employed for IP CTS and VRS.

²⁶ Petition for Reconsideration of Sprint Corporation, CG Docket Nos. 03-123 and 10-51, at 5 n.11 (July 31, 2013) ("Sprint Petition").

²⁷ *See id.*

Engaging a new entity to design effective outreach initiatives for each type of iTRS technology, including the unique IP CTS user population, would be both ineffective and inefficient. TRS providers have years of experience reaching out to specific segments of the deaf and hard-of-hearing community and tailoring their approaches to their particular audiences. The Commission has recognized that “[i]t is crucial for everyone to be aware of the availability of TRS for it to offer the functional equivalence required by the statute.”²⁸ Relegating IP CTS outreach to an ill-equipped national outreach provider would reduce public awareness, thereby “prevent[ing] TRS from achieving [its] Congressionally mandated objective.”²⁹ Accordingly, to the extent that the Commission decides to include IP CTS outreach as part of its pilot program, the independent outreach entity’s activities should supplement, rather than replace, the more targeted outreach initiatives conducted by IP CTS providers, and such outreach activities should continue to be compensated from the TRS Fund.³⁰

Additional Rules. The Commission broadly seeks comment on whether “other VRS-specific rules and obligations” adopted in the Order should be applied to all iTRS providers.³¹ As noted above, Sprint does not support a reflexive extension of the VRS rules to other forms of relay. Instead, any new rules applied to IP Relay or IP CTS must be designed to address a specific need or concern related to IP Relay and/or IP CTS. Thus, for example, Sprint would not support imposing slamming rules on IP CTS providers at this time, given that there is

²⁸ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5140, ¶ 105 (2000).

²⁹ *Id.*

³⁰ In addition, as noted above, divorcing outreach/advertising from the provision of the service creates difficulties for providers as they attempt to run their businesses and project demand for their service(s). *See supra* discussion at 8-9.

³¹ FNPRM ¶ 255.

no evidence that IP CTS customers are being “slammed.” Indeed, the Further Notice does not cite a single instance in which an IP CTS customer suffered from an unauthorized change in providers. Instead, the Commission simply notes that it received approximately 25-30 complaints from *VRS consumers* about unauthorized default provider changes and that “the rules on prevention of slamming . . . appear to be appropriate for application to IP CTS providers.”³² Rather than imposing rules for the sake of uniformity alone, the Commission should first consider the need for any new requirements related to the specific form of iTRS in question, develop a reasoned justification for applying new rules to that technology, and then seek comment on any specific proposals in a targeted rulemaking proceeding.

IV. THE COMMISSION SHOULD ADOPT CLEAR RULES REGARDING THE DATA THAT MUST BE SUBMITTED TO THE TRS FUND ADMINISTRATOR

The Commission should modify its rules governing the data that providers must submit to the TRS Fund Administrator, Rolka Loube Saltzer Associates LLC (“RLSA”), in order to be eligible for compensation from the TRS Fund.³³ In particular, the Commission’s rules must account for the fact that each segment of the TRS industry generates different call detail information and other operating data and collects such information in different formats. To accommodate such differences in technology in a way that both avoids imposing undue burdens on providers and ensures that only legitimate minutes are compensated from the Fund, the Commission should direct RLSA to work collaboratively with each industry segment to identify the relevant data and to develop an appropriate format for reporting such data.

³² *Id.* ¶ 142 n.327, ¶ 255.

³³ *See id.* ¶ 266 (seeking comment on whether further changes are needed to the “rules on data that must [be] submitted to or that may be collected by the TRS Fund administrator” or the “rules governing payments to TRS providers [or] eligibility for payments from the TRS Fund”).

The Commission also should make clear that: (1) RLSA must make the proposed format for each industry segment available for comment prior to its final adoption; (2) service providers must have at least 90 days to comply with any format changes after they are adopted; and (3) RLSA may not unilaterally revise the reporting format during the rate year. As Sprint indicated in its recent Petition for Reconsideration, the regulatory uncertainty that providers already face is greatly exacerbated by the fact that the Commission and RLSA currently can change the requirements for receiving compensation during the funding period.³⁴ For example, RLSA recently modified the requirements related to how IP Relay minutes are submitted for compensation, and this modification required Sprint to make changes to its recordkeeping systems. In addition to incurring additional costs to comply with the new requirements, Sprint faced the risk of being denied compensation if RLSA or the FCC determined that Sprint had not adequately complied with the new requirements or had not complied in a timely fashion. The Commission (and RLSA) should aim to minimize these types of costly, unnecessary occurrences by making the reporting requirements for each type of TRS clear *before* the funding period commences.

V. PROVIDERS SHOULD BE PERMITTED TO PARTICIPATE IN THE TRS FUND ADVISORY COMMITTEE

The Commission proposes to dissolve the existing TRS Fund Advisory Council and replace it with a new advisory committee that focuses on issues beyond “cost recovery matters.”³⁵ While Sprint supports this expanded focus, it believes that the advisory committee

³⁴ Sprint Petition at 12.

³⁵ FNPRM ¶¶ 244-249.

should include providers, as well as other interested parties.³⁶ Indeed, the Commission’s proposal to prohibit providers from participating in the advisory committee is directly at odds with its statement that “all interested parties” should be “fairly represented” on the reformed committee.³⁷ Sprint is an active participant on the current Advisory Council and believes that provider participation has played an integral role in the Council’s work to date. As the new committee begins to work on issues such as technology,³⁸ provider input will continue to be necessary. While consumers, researchers, Fund contributors, and state administrators likely will have opinions regarding such issues, providers will have the most extensive “real-world” knowledge and experience. For example, providers can give critical practical input regarding whether a proposed new technology can be quickly deployed in a cost-effective manner or whether internal systems readily can be reconfigured to add specific information to an industry database.

Notably, the Commission acknowledges the need for provider input in other contexts. For example, providers actively participate in committees such as the Consumer Advisory Committee, which makes recommendations to the Commission regarding consumer issues.³⁹ There simply is no reason to exclude providers from participation in this comparable context,

³⁶ The Commission also should ensure that the “areas . . . included within the new advisory committee’s focus” are clear. *Id.* ¶ 247. At two points in the Further Notice, the Commission indicates that the committee will provide advice and recommendations in four areas. *Id.* ¶¶ 244, 249. At another point in the Further Notice, however, the Commission seeks comment on which of six areas should be part of the new advisory committee’s focus. *Id.* ¶ 247.

³⁷ *Id.* ¶ 248.

³⁸ *Id.* ¶ 247.

³⁹ *Consumer Advisory Committee – Announcement of Rechartering, Appointment of Members, Designation of Chairperson, Agenda, Date and Time of Meeting*, Public Notice, 28 FCC Rcd 4079, DA-13-577 at 2 (2013) (noting that ten members represent the interests of industry).

particularly when providers have successfully served on the existing TRS Fund Advisory Council for well over a decade. To the contrary, the Commission should continue to allow nominated provider representatives to serve on the new advisory committee.

VI. CONCLUSION

For the foregoing reasons, Sprint respectfully asks the Commission to establish service-specific rules, provide clear guidance regarding the data that must be submitted to seek compensation, and permit providers to serve on the proposed advisory committee.

Respectfully submitted,

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